

Temple University is a comprehensive state-related institute of higher learning and is a part of the Commonwealth of Pennsylvania's System of Higher Education. Temple is one of Pennsylvania's three public research universities. It is the 28th largest university in the United States, and the 6th largest provider of professional education in the country. Temple operates five campuses and two education centers with a total enrollment of over 34,000 students. Temple is the licensee of the following non-commercial FM broadcast stations and translators:

<u>Station</u>	<u>Class</u>	<u>City of License</u>	<u>Population Served (60 dBu, 2000 census)</u>
WRTI	B	Philadelphia, PA	5,089,265
WRTY	B1	Jackson Township, PA	190,322
WRTL	A	Ephrata, PA	181,929
WRTX	A	Dover, DE	91,729
WRTQ	B1	Ocean City, NJ	334,998
WJAZ	A	Summerdale, PA	273,660
W256AB	Translator	Pottsville, PA	60,703
W291AP	Translator	Scranton, PA	136,582
W249AT	Translator	Reading, PA	179,619
W246AA	Translator	Allentown, PA	221,195
W214AC	Translator	York, PA	96,468
W235AA	Translator	Wilkes-Barre, PA	70,728

In addition, Temple holds construction permits for 8 new translators (Auction 83 singletons). These translators have service areas adjacent to existing facilities licensed to Temple. Other applications for additional translators filed in Auction 83, as well as a class A facility, are awaiting mutual exclusivity resolution.

Approximately half of Temple's licensed facilities were constructed with the assistance of Federal funding via the Public Telecommunications Facilities Program ("PTFP") of the National Telecommunications Information Administration ("NTIA"). Temple facilities funded via PTFP grants include stations providing coverage in under-served "white areas".

COMMENTS

1. Existing translator stations should continue to receive protection from LPFM stations, on both their input and output channels, under the current rules.

Temple utilizes translators as a practical way of providing coverage into areas that otherwise could not be served. All of Temple's currently-licensed translators, as well as those for which applications are still pending, provide either fill-in service within the protected contour of a full-service station, or as an extension of service into areas adjacent to, or in between, the coverage of an existing facility or facilities licensed to Temple. These translators have long served as a means by which Temple's unique programming and public service has been extended into neighboring communities in which signal delivery from full-service stations was not possible. Translators are a critical part of Temple network.

Ongoing financial support of Temple's translators from the communities they serve is the means by which the operation of these translators is able to continue. This support is reflective of the quality of programming and the attention to, and coverage of, local matters of importance specific to those communities. Temple's unique programming of Jazz and Classical music is not offered by other broadcast stations, either commercial or non-commercial, in many of the areas

Temple serves. Locally-produced news and coverage of cultural, political, and general interest topics and events by Temple's team of fifteen reporters and producers results in programming on these stations that would otherwise not be available to the public. Temple is committed to local programming and serving the communities in which Temple's stations operate, tantamount to the premise on which the LPFM service was created. To argue that LPFM would provide a level of localism beyond that which Temple presently provides through its network is tenuous at best, and by no means provides a valid basis upon which to formulate changes to existing regulations that would adversely impact the entire FM translator service.

In most cases, Temple has licensed and constructed translators in areas which otherwise would not be able to be served due to the lack of available frequencies for a full-service station. Due to their secondary-service nature, translators have additional flexibility in terms of transmitter site location in that, unlike full-service facilities, they may accept interference from other incumbent stations. This results in translators being able to be constructed in areas that otherwise would not be able to be served by protected, full-service facilities. However, translators can be displaced by new or modified full-service facilities, and as such, there is a perpetual, inherent threat to the longevity of any translator station. Indeed, Temple has experienced this first-hand in the case of translator W291AP (previously W290AB) which was displaced by the allotment of a new co-channel commercial class A facility licensed to Pocono Pines, PA and had to change to a new channel to eliminate interference. In this case, Temple was fortunate in that an alternative channel could be found, but this is not always the case.

With the exception of W214AC, all of Temple's translators, both currently operating as well as those for which construction permits have been received or are still pending, are in the non-reserved band. Several of Temple's translators are located within the coverage area of a Channel 6 television station (WPVI, Philadelphia, PA), and therefore could not be licensed in the reserved band under the present rules. As such, being in the non-reserved band, over-the-air "direct" reception is the only means by which these translators can receive programming. Protection from interference on the input channel for these translators in the non-reserved band is crucial, for if the input channel is interfered with, all listeners within the translator's coverage are impacted, and should such interference be realized, an alternative means of program delivery such as microwave or satellite is not an option under the current Rules. Furthermore, translators which receive their programming through an intermediate translator which suffers such interference on its input channel are also affected, compounding the problem further with the same irremediable effect.

The possibility of displacement or received interference is a risk that is well understood by all translator licensees and applicants, but it is a threat that should not be exacerbated by empowering LPFM stations with the capacity to displace translators. Based on the population counts earlier, 11% of the population served by Temple stations receives programming via a translator station. In several cases, the population served by a translator exceeds that of a full-service facility. To put translators providing vital service at further risk would be unjust to the thousands of translator licensees and the listeners which they serve, contrary to the public interest.

2. Short-form mutually-exclusive (MX) translator applications filed during the 2003 filing window should not be universally dismissed without cause.

In the *Further Notice of Proposed Rulemaking*, the question was posed as to whether or not the Commission should dismiss all pending applications for new FM translators including those mutually-exclusive applications filed during the 2003 filing window subject to future rulemaking pertaining to changes to the LPFM service. Regardless of the outcome of the NPRM, existing applications should not be categorically dismissed.

It has been alleged that there were many applications filed as part of Auction 83 that border on abuse of the current Part 74 FM translator regulations and filing procedures. Thousands of applications were filed by entities having no interest in operating the translator stations for which they applied, but rather did so as speculators hoping to be able to sell the construction permits for these stations to interested parties -- the same parties that were competing for licenses in the same filing window. Even if not patently violative, this type of speculation and profiteering is in neither the spirit nor intent of the current rules.

Furthermore, many short-form applications were filed with technical parameters that would result in a facility that would have no possibility of being able to receive a construction permit due to interference to another incumbent facility. Although no technical analysis with regard to the grantability of any of the short-form "expression of interests" filed as part of Auction 83 was done, the simple fact is that the lack of such review was responsible for the excessive number of applications filed and the equally daunting number of mutually-exclusive applications that have yet to be resolved.

Aside from interference issues, applications were filed during the 2003 filing window which may be in violation of other Rules or policies. For example, prospectors have specified primary stations in the application for which they have not received permission to rebroadcast. Likewise, transmitter sites have been specified at which there is no, or little, possibility of constructing a translator station. During a cursory review of other MX'ed applications, Temple has even found applications filed by other parties for translators specifying one of Temple's own stations as the primary station, and at transmitter sites which Temple owns and already operates one of its own stations!

LPFM advocates who have proposed, or are proponents of, rule changes are generally in agreement that non-commercial translators which are owned by a local or regional entity and serve a local audience, such as those operated by Temple, are not the root cause of the shortage of spectrum available to new LPFM operations. In a paper on its web site, Prometheus Radio Project states that:

Satellite-fed translator chains are the antithesis of localism and are harmful to both full power and low power non-commercial radio. Translator policies must be re-evaluated in order to ensure that LPFM stations offering local programming are given spectrum priority over, translators that are fed programming remotely, rather than directly from local transmitters.

Temple is in agreement with this argument and believes that future rulemaking should take into account localism as one of the qualifications in awarding translator construction permits where such applications compete with, or may be affected by, LPFM applications as well as other mutually-exclusive translator applications.

Abuse of the present application system is clearly evident in many of the 2003 window filings. The Commission has at its disposal the authority and means by which to dismiss fraudulent and patently inaccurate or ungrantable applications through existing Regulations and policies. Furthermore, to correct for the abuses the present system by speculators and to prevent future recurrence of the same, new rules can and should be adopted while still allowing legitimate applications to be processed without unwarranted delay or penalty. The Commission also has a duty to provide a fair and equitable distribution of the available spectrum, and as such, should formulate policies and adopt rules that prevent speculation, deter profiteering and ensure that localism and diversity is maintained by qualifying translator license applications and awarding same based on merits beyond interference analysis.

Any rulemaking, either as part of the instant Matter or in future proceedings, should be crafted such that vast number of legitimate translator licensees and applicants do not become victimized in the course of correcting for abuse and exploitation of the present system by a few dubious applicants.

CONCLUSION

Temple urges the Commission to limit modifications of its LPFM rules to the extent that adverse impact to the existing FM translator service, and the public interest it serves, is avoided.